

PLANNING COMMISSION MINUTES

JULY 5, 2007

CASE NO. 9-61-06VW

NOTE: Commissioner Blake left the meeting at 3:00 p.m. and did not hear or vote on this or the following cases.

NOTE: Commissioner Storm was not present and did not vote on this case but returned to the hearing for the last three cases.

Change in zoning from R-5 Single-Family Residential to OR Office Residential on property located at 2955 & 2957 Brownsboro Road, a variance to reduce the parking and maneuvering to be 5-feet from the Brownsboro Road property line, and waivers to reduce perimeter landscaping on the north property line from 15-feet to 5-feet with a 6-foot solid wood fence, containing 0.3 acres total and being in Louisville Metro.

Owners/Applicants:

Joseph & Bianca Wall
6807 Brownsboro Road
Louisville, KY 40222

Daniel Jordan Wall
2957 Brownsboro Road
Louisville, KY 40206

Applicant's Representatives:

Melanie Byers
Phil Bills
BTM Engineering, Inc.
3001 Taylor Springs Drive
Louisville, KY 40220

Brenda Bowlin (independent consultant)
10639 Meeting Street Suite 407
Prospect, KY 40059

Michael L. Maple
123 South 7th Street
Louisville, KY 40202

Engineer/Designer:

Same as "Applicant's Representatives"

Attorney:

None

Existing Uses:

Single-family residential

Proposed Use:

Office

Council District:

9—Tina Ward-Pugh

Staff Case Manager:

Stephen Lutz, AICP

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Notice of this public hearing appeared in **The Courier Journal**, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

The following spoke in favor of this request:

Phil Bills, BTM Engineering Inc., 3001 Taylor Springs Drive, Louisville, KY 40220

Michael L. Maple, 123 South 7th, Louisville, KY 40202

Brenda Bowlin (independent consultant), 10639 Meeting Street Suite 407, Prospect, KY 40059

Bianca Wall, 6807 Brownsboro Road, Louisville, KY 40222

The following spoke in opposition:

Anne McMahon, 2854 Coleen Court, Louisville, KY 40206

Dolores Collins, 2904 Lindsay Avenue, Louisville, KY 40206

Helen Nichols, 432 Hillcrest Avenue, Louisville, KY 40206

Christian Juckett, 2921 Riedling Drive, Louisville, KY 40206

Anne Milton McMillin, 2921 Reidling Drive, Louisville, KY 40206

Susan H. Wilburn, 439 University Avenue, Louisville, KY 40206

Madelon Zady, 2708 Audley Drive, Louisville, KY

Wilma C. Emerson, 410 Kenilworth Road, Louisville, KY 40206

Barb Sinai, no address, 40206

Shawn Dikes, 128 North Birchwood, Louisville, KY 40206

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Patria Fielding, 129 North Bellaire Avenue, Louisville, KY 40206

Bruce Skinner, 4 Rebel Road, Louisville, KY 40206

Roy Scarbrough, 359 Hillcrest Avenue, Louisville, KY 40206

Lara Zuber, 434 Hillcrest Avenue, Louisville, KY 40206

Robert Jobson, 3 Rebel Road, Louisville, KY 40206

Edwin S. Foote, 9 Rebel Road, Louisville, KY 40206

The following spoke neither for nor against:

No one spoke.

Agency Personnel:

Stephen Lutz, Planning Supervisor

AGENCY TESTIMONY:

3:00:10 Stephen Lutz presented the case and showed a Power Point presentation, which included maps and photos of the site and the surrounding area. He reviewed the major issues to be discussed (see staff report for verbatim presentation.)

SUMMARY OF TESTIMONY OF PROPONENTS:

3:05:48 Phil Bills, an applicant's representative, stated that he had previously submitted into the record a booklet with explains many issues and also has a copy of the applicant's proposed findings of fact. He showed a Power Point presentation with maps, site plans, renderings, aerial photos, and photos of the site and the surrounding area. He also submitted a traffic count study (see file.) He discussed the amount of traffic coming through on Hillcrest Avenue and on Brownsboro Road. An aerial photo showed office/commercial uses nearby on Brownsboro Road. He said the structure will have no signage and will maintain its residential appearance; also, there are no plans to change the landscaping.

3:17:49 Commissioner Howard asked what type of office use is planned; also about potential signage. Michael Maple, an applicant's representative, said the proposed use is for a career consultant's office (with one or two staff

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members) with a maximum of three to four appointments per day. He said the access will be strictly off of Rebel Road; the parking should be more than is required. He stated that removal of the house will not adversely impact the residential areas, and might help reduce traffic and on-street parking concerns. In response to a question from Commissioner Howard, Mr. Bills showed a photo of a hair salon that is across the street from the site. Mr. Maple pointed out that this project could lessen the sharpness of a curve at that corner. In response to a question from Commissioner Wells-Hatfield, Mr. Maple said the proposed hours of operation are from 9:00 a.m. to 4:30 p.m. Monday through Friday. Commissioner Abstain asked if there were any other facilities in the area that had been considered for this business. Mr. Maple said the client wanted this property because of the uniqueness of the site and its accessible location. Commissioner Carlson asked if it was necessary to remove the adjoining building, since that would provide too much parking space. Mr. Maple said it was necessary to remove the building to provide parking. He said neighbors had complained about cars parking on Rebel Road; Mr. Maple said over-ample parking would resolve that question and prevent problems for neighbors.

3:29:00 Brenda Bolin, an applicant's representative, said the property is dysfunctional as a residential property because of its location. The property owners cannot use the property as residential unless it is as a rental home. She said most people would not buy these homes because they are located on major arterial roads with heavy traffic. She said this proposal would preserve the residential character of the neighborhood while providing a functional, transitional use.

SUMMARY OF TESTIMONY OF OPPONENTS:

3:37:49 Ann McMahon, representing the Clifton Heights Community Council, said neighbors oppose this project because it does not follow the Clifton Heights Neighborhood Plan and does not maintain the residential character of the neighborhood.

3:39:25 Dolores Collins, also representing the Clifton Heights Community Council, opposes non-residential uses. She said Clifton Heights is losing many residences due to the encroachments of commercial uses. She said traffic is already heavy, particularly at this intersection, and there are many accidents there.

3:42:18 Helen Nichols, a Hillcrest Avenue resident, opposes the zoning change mostly due to the heavy traffic that is already present at this intersection. She is also concerned about commercial encroachment into a residential neighborhood.

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3:44:36 Christian Juckett was called but was not present to speak.

3:44:52 Anne Milton McMillin said there are plenty of “young professionals” in the area. She is also concerned about commercial encroachment. She said the applicant is only looking to the west along Brownsboro Road, but not to the east, where there are no commercial properties. Also, there is no business property along the entire length of Hillcrest Avenue.

3:46:26 Susan Wilburn was called but declined to speak.

3:46:31 Madelon Zady was called but declined to speak.

3:46:39 Wilma Emerson, a Kenilworth Road resident, read a letter from Noelle Rueff into the record (Ms. Rueff is president of the Reidlonn Neighborhood Association.) The letter expressed opposition to the proposal because it would allow commercial encroachment into the neighborhood. The intersection is “extremely busy” and there are concerns about traffic congestion. Ms. Rueff wrote that the proposed plan is not in keeping with the Clifton Heights Neighborhood Plan.

3:49:18 Barbara Sinai submitted three additional letters of opposition from the Crescent Hill Community Council, from the Neighborhood Planning and Preservation Organization, and from Lori Jacobs, a neighbor.

3:49:54 Mr. Maple objected that these letters were not sworn testimony. Theresa Senninger, legal counsel for the Planning Commission, said his objection would be noted for the record. She said these letters would go into the file, which is part of the official record.

3:51:12 Shawn Dikes, a transportation planner representing the Clifton Heights Community Council and the Crescent Hill Community Council as their Transportation Chair, said this small business did not warrant this location. He said a highly-traveled road is good for fast food and other businesses that rely on “impulse buying” but an office does not rely on such traffic. He said the examples presented by the applicant of other homes that have been converted to office uses did not involve the destruction of a sound home for a parking lot. He said the removal of this structure does destabilize the neighborhood. He said property uses are still functional in this area.

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3:53:18 Patria Fielding, co-Chair of the Clifton Community Council, said there are already six nearby commercial structures that are nearby that are vacant.

3:55:07 Bruce Skinner was called but was not present to speak.

3:55:21 Roy Scarbrough, a Hillcrest resident, said there is nothing wrong with the existing home and it should not be demolished. He disputed the idea posited by the applicants that this office would bring more “young professionals” into the neighborhood. He said there is a three-story office building one block west of this site that has had a “vacancy” sign on it for about 21 years. He said the access onto Rebel Road turning eastbound on Brownsboro Road is dangerous due to a bad sight-line.

3:58:13 Lara Zuber, a Hillcrest Avenue resident, said the proposal will not improve the neighborhood.

3:58:58 Robert Jobson, a Rebel Road resident and an adjoining property owner, reiterated that there is much cut-through traffic already and access into the proposed parking lot will be difficult, not easy. He questioned what the commercial uses will be there in the future.

4:01:35 Edwin Foote, a Rebel Road resident, submitted his speech into the record. He reiterated that there is plenty of commercial space available in this area.

SUMMARY OF TESTIMONY OF THOSE NEITHER FOR NOR AGAINST:

No one spoke.

REBUTTAL:

4:04:39 Mr. Maple disagreed that the project would increase traffic – he said it either will not change or may actually decrease traffic. Also, he said his client has a right to remove that building. He said he has been authorized to limit the number of parking spaces to six. He said the traffic flow at this corner is so heavy now that the homes may not be suitable or safe for families to live in now. He said that allowing commercial uses here does not necessarily mean it will spread to other residences in the area.

4:09:31 Commissioner Carlson asked how the proposed business would serve the needs of the neighborhood. Mr. Maple said growing businesses serve the entire community, not just one neighborhood.

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An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning and Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the July 5, 2007 proceedings.

In a business session subsequent to the public hearing on this request, the Commission took the following action.

On a motion by Commissioner Carlson, the following resolution was adopted:

WHEREAS, the Commission finds that based upon evidence and testimony presented in the application, the case file, during Land Development & Transportation Committee review, and during the Public Hearing, that this proposed construction violates Comprehensive Plan Community Form Element Form Districts / Activity Centers / Compatibility / Open Space 1.B.3 . Neighborhood Form Districts are characterized by predominately residential uses that vary in density and blend with existing land uses. Commercial or office activity centers are generally limited to property at the intersection of an arterial or collector level street and offering a mixture of appropriate land uses at locations that support the population while providing adequate accessibility and connectivity for automobile, transit, pedestrian, and bicycle transportation modes. This site is on an arterial level street (Brownsboro) and is of a relatively small size and intensity. There are commercial uses both across Brownsboro Road from the site and to the west. This site itself, however, is separated from the commercial use to the west by Rebel Road, and is part of a solid single-family residential block; and

WHEREAS, the Commission further finds that the demolition of a single-family residential structure for a parking lot and the conversion of the house at 2957 Brownsboro Road appears to be destabilizing to this single-family residential block. Given the existing land use pattern in the area it does not appear that this location is suitable for a non-residential land use; and

WHEREAS, the Commission further finds that a review of land use patterns in the area tends to suggest that there are ample available vacant structures zoned appropriately for office use; and

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WHEREAS, the Commission further finds that the applicant did not explain why the demolition of what appears to be a structurally sound single-family residential house is justified given the apparent abundant alternative sites nearby suitable for potential small office uses; and

WHEREAS, the Commission further finds that the request violates Guidelines 3.1, 3.2, 3.4, 3.9, 3.11, 3.23 regarding Compatibility. The proposed new development should be appropriate in scale, site design, and the pattern of development with adjacent residential areas. Non-residential expansion into residential areas is discouraged unless the applicant can demonstrate how the adverse impacts of traffic, parking, signage, lighting, noise, odor, and stormwater-runoff will be mitigated; and

WHEREAS, the Commission further finds that visual impacts of the proposed development should be mitigated when appropriate by protecting the character of residential areas, roadway corridors, and public spaces from visual intrusions. In terms of compatibility with the single-family residential structures nearby, the conversion of the single-family residential house at 2957 Brownsboro Road is less of a concern than the demolition of the home at 2955 Brownsboro Road for parking. The demolition of the house, to construct a parking lot, appears to destabilize the residential block face of this section of Brownsboro Road and could lead to pressure to remove or convert additional homes on the Rebel Road/Brownsboro Road block; and

WHEREAS, the Commission further finds that, to construct the parking lot, the applicant needs a variance and a waiver to construct the parking lot right up to the edge of the property line, as well as a waiver of the landscaping requirements adjacent to the single-family residential home to the north. Given that the lot size is too small to accommodate a parking lot without variances and waivers, and that it is an intrusion into a solid single-family residential block, this use appears to be incompatible with the neighborhood; and

WHEREAS, the Commission further finds that the proposal violates Goal C3 of Cornerstone 2020 (to protect existing residential neighborhoods from adverse impacts of proposed development and land use changes...a variety of land use changes should be encouraged which serves the residents' daily needs and are compatible with the scale and the character of the neighborhood. The applicant has not shown how this use will serve resident's needs; and

WHEREAS, the Planning Commission finds that, based on the staff report, evidence, testimony, and discussion presented at the public hearing today, the

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proposal is neither in accordance with the Comprehensive Plan nor with applicable portions of the Development Code for Louisville and Jefferson County; now, therefore, be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative council of the Louisville/Jefferson County Metro Government that the change in zoning **from R-5 Single Family Residential to OR Office Residential** on property described in the attached legal description be **DENIED**.

The vote was as follows:

YES: Commissioners Ernst, Carlson, Wells-Hatfield, Abstain, Hamilton, and Queenan.

NO: No one.

NOT PRESENT: Commissioners Fleischaker, Storm and Blake.

ABSTAINING: Commissioner Howard.